IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITON NO.1159 OF 2006

M.M. Shah Consultants Ltd. & Anr. ..... Petitioners.

V/s

Shri Purushottam Mukunddas Lohia
and anr. ..... Respondents.

Mr. R.G. Ketkar for Petitioners.

Mr. A.P. Vanarse for Respondent No.1.

Mr. P.A. Pol, APP for the State.

CORAM: V.M. KANADE, J.
DATE : 3rd September, 2007

P.C.:

1. Heard the learned Counsel appearing on behalf of Petitioners and the learned Counsel appearing on behalf of Respondent No.1.

2. Petitioners are challenging various orders which are passed by the J.M.F.C., Pune on applications which were taken out by Petitioners herein.

3. In the present case, Petitioners are seeking production of certain documents from the complainant. Initially, Petitioners had filed an application dated 12/01/2003 in which following prayer was made:-

> "1) The Hon'ble Court may kindly direct the complainant to produce requisite documents as mentioned herein above in para 3 of the application."

4. The learned Magistrate by his order dated 12/11/2003 directed the complainant to produce the documents for the purpose of inspection by the accused. Thereafter, second application - Exhibit-23 has been filed by Petitioners herein, seeking same relief. The learned Magistrate by his Order dated 17/02/2004 rejected the said application. Petitioners preferred revision application in the Sessions Court vide Criminal Revision Application No.341 of 2004. The said revision application is also dismissed.

5. The learned Counsel appearing on behalf of Petitioners has relied on the order of this Court in Criminal Writ Petition No.2643 of 2004 dated 30th September, 2005 and submitted that, in that Petition, a similar prayer was made by the accused and it was granted by the learned Single Judge of this Court. I have perused the said order.

6. The submission made by the learned Counsel appearing on behalf of Petitioners cannot be accepted. Initially, Petitioners had filed similar application which was rejected by the learned Magistrate. Thereafter, second application below Exhibit-23 has been filed by Petitioners. In my view, successive applications seeking same relief cannot be entertained by the Courts and, on that ground alone, the

relief claimed by Petitioners is liable to be rejected.

7. Apart from that, in my view, the order passed by this Court in Criminal Writ Petition No.2643 of 2004 on which reliance is placed by the learned Counsel appearing on behalf of Petitioners also cannot be of any assistance because, in the said case, in view of no objection which was given by the Counsel for complainant, the learned Judge had directed the complainant to produce originals of the said documents. It appears that Petitioners - applicants have made successive applications only with an intention to prolong and protract the trial. Since the accused had already taken inspection of the said documents, they would be in a position to effectively cross-examine the complainant and the complainant cannot be compelled to produce these documents in view of provisions of section 131 of the Evidence Act.

8. Writ Petition is accordingly dismissed.

(V.M. KANADE, J.)